IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 8776 of 2004

Between:

Vadde Pedda Nagesam, S/o Nagamaiah,
Pedda Kolumulapalli Village, Bethamcherla Mandal, Kurnool District.

..... PETITIONER

AND

1 The Director General of Police of Andhra Pradesh, Hyderabad.
2 The Superintendent of Police, Kurnool.
3 The Station House Officer, Bethamcherla Police Station,
Kurnool District.
4 Vadde Maddilety, S/o Late Thimmaiah,
R/o Pedda Kilumalapalli Village, Bethamcherla mandal, Kurnool District, now staying at L-Banda Kottala Village, Veldurthi Mandal, Kurnool District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Habeas Corpus directing the Respondents to produce the minor girl by name Savithri, forthwith before this Hon'ble Court and keep her in lawful custody of her guardian according to law

Counsel for the Petitioner:MR.C.PRAKASH REDDY

Counsel for the Respondent No.1 to 3: ADVOCATE GENERAL

The Court at the admission stage made the following ORDER:

(per Hon'ble Sri Devinder Gupta, the Chief Justice)

We have summoned the petitioner as also his daughter who has been produced. Respondent No.4 is also present in Court. This petition is filed seeking writ of habeas corpus for production of petitioner's daughter since, according to the petitioner, she has illegally been detained by the respondent No.4 and that she is minor and born on 10-6-1987 as per the certificate issued by the head master of mandal parishad upper primary school, Kolumulapalli. Petitioner lodged complaint against respondent No.4 and three others for offences under Sections 361, 366 and 396 IPC upon which crime No.35/2004 was registered on 25-3-2004 and even as per the doctor's opinion the approximate age of petitioner's daughter was 17 ½ years.

Petitioner's daughter, when question, is not willing to go to her maternal home and stay with her father. She states that respondent No.4 has been residing near their house and she had known him since childhood and has voluntarily married respondent No.4 and is staying with him. She asserts that she is major even on the date when she joined the company lof respondent No.4.

Material document collected by the investigating officer which is the extract from the births and deaths register and as per entry therein, a girl was born to the petitioner's wife on 10-1-1986 of which registration was made on 2-2-1986. On being questioned, the petitioner stated that he has five children. Savithri is the youngest one and there is a gap of about 7 years from the date of birth of the fourth child to the date of birth of Savithri and no other child was born during this period.

Learned counsel for the petitioner submits that after the police collected the birth certificate and extract from the births and deaths register, an enquiry was conducted by the mandal revenue officer and as per his enquiry report, the first son was born on 5-7-1989, second son and third son were born on 10-1-1983 and 8-7-1984

respectively. There are two other female children born on 10-1-1986 and 10-6-1987 and the last child was born on 6-1-1989. On the basis of the mandal revenue officer's report it is alleged that petitioner is entitled to the custody of his daughter, she being minor since her date of birth was correctly recorded in school register. As a matter of fact, this report of mandal revenue officer does not tally with the version which the petitioner has given before us that he has five children and from the date of birth of the fourth child to the date of birth of Savithri there is a difference of 7 years.

In these circumstances, considering the wishes of the petitioner's daughter who has been produced before us, we are of the view that no direction can be issued as prayed for by the petitioner since petitioner's daughter states that there is no restraint on her or on her movements and she is free to reside wherever she intends to do so.

Accordingly, this writ petition stands disposed of.

_____

DEVINDER GUPTA, CJ

_____

G.ROHINI, J

28th June, 2004.

nmr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

TO

1 The Director General of Police of Andhra Pradesh, Hyderabad.
2 The Superintendent of Police, Kurnool.
3 The Station House Officer, Bethamcherla Police Station,
Kurnool District.

4 2CD copies

5 The Advocate General, High Court of A.P., Hyderabad (OUT)